REMARKS

This is a full and timely response to the final Official Action mailed December 1, 2005. Reconsideration of the application in light of the above amendments and the following remarks is respectfully requested.

Request for Continued Examination:

Applicant hereby requests Continued Examination for this application and entry and consideration of this amendment consequent thereto.

Claim Status:

By the foregoing amendment, various claims have been amended. Claims 3, 4, 8, and 9 have been cancelled herein without prejudice or disclaimer. Applicant reserves the right to file any number of continuation or divisional applications to the cancelled claims or to any other subject matter described in the present application. No claims are added by the foregoing amendment. Thus, claims 1, 2, 5-7, and 10-24 are currently pending for the Examiner's consideration.

Claim Rejections – 35 U.S.C. § 102:

In the previous non-final Office Action, claims 1-4 and 14-16 were rejected as anticipated under 35 U.S.C. § 102(e) by U.S. Patent No. 6,527,782 to Hogg et al. ("Hogg"). However, in light of Applicant's arguments in response to that Office Action, the rejections based on Hogg were withdrawn in the recent final Office Action.

In the most recent final Office Action, claims 1-16 and 21-24 were rejected as anticipated under 35 U.S.C. § 102(b) by U.S. Patent No. 5,390,671 to Lord et al. ("Lord"). For at least the following reasons, these rejections are respectfully traversed.

Claim 1, as amended herein, recites:

> A deep brain stimulation system comprising:
> a cannula having a lumen and a slit, the slit extending through a portion of a length of the cannula;
> an elongated medical device dimensioned to be insertable within the cannula lumen, the medical device comprising an offset portion that extends laterally out of the cannula through the slit when the medical device is inserted in the lumen;
> a reference platform for supporting the medical device; and
> a lock for releasably securing the offset portion of the elongated medical device to the reference platform, the lock engaging the offset portion which extends through the cannula slit.

(emphasis added).

Independent claims 6 and 14 recite similar subject matter.

In contrast, Lord fails to teach or suggest the claimed lock for releasably securing an offset portion of an elongated medical device that extends through a cannula slit to a reference platform. Rather, Lord discloses a slotted insertion needle configured to house a flexible film sensor that protrudes from a mounting base. (Lord, col. 1, lines 59-63). The sensor includes a distal portion and a proximal portion with a short transition segment extending angularly therebetween. (Lord, col. 2, lines 8-12). The transition segment is configured to align the sensor with the slotted insertion needle. As described in Lord, the transition segment "projects laterally through the needle slot 54 so that the sensor distal segment is coaxially aligned within the insertion needle 14." (Lord, col. 4, lines 30-32).

The sensor taught in Lord is not *releasably* secured to the mounting base. Rather, as described in Lord, the sensor is always coupled to the mounting base. Conversely, the position of the claimed medical device within the cannula may be adjusted until it is

releasably secured by the lock to the reference platform. Hence, Lord does not teach or suggest releasably securing a medical device to a reference platform.

Moreover, the claimed lock cannot be read on the transition segment of the sensor taught in Lord, as suggested in the recent final Office Action. The claimed lock is configured to releasably secure an offset portion of the medical device to the reference platform. However, the transition segment is *not* secured to the mounting base. Rather, as disclosed in Lord, the *proximal segment* of the sensor is coupled to the mounting base. (Lord, col. 3, lines 65-69). Consequently, Lord does not teach or suggest a lock that secures the offset portion of a medial device to a reference platform.

Furthermore, Lord fails to teach or suggest securing to a reference platform a portion of a medical device that *extends laterally* out of a cannula slit. As previously discussed and as shown in FIG. 4 of Lord, only the proximal segment of the sensor is coupled to the mounting base. However, as shown in FIG. 2 of Lord, the proximal segment of the sensor does not extend laterally out of the cannula slit. Rather, the proximal segment is *linearly* offset with respect to the insertion needle. (Lord, col. 4, lines 30-34). Consequently, Lord does not teach or suggest securing to a reference platform a portion of a medical device that extends laterally out of a cannula slit.

Thus, Lord fails to teach or suggest a deep brain stimulation system that includes a lock for releasably securing an offset portion of an elongated medical device that extends through a cannula slit to a reference platform. A claim is anticipated [under 35 U.S.C. § 102] only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). *See* M.P.E.P. § 2131. Because Lord fails to teach or suggest all the features of claims 1, 6, and 14, the rejection of these

claims and their respective dependent claims based on Lord should be reconsidered and withdrawn.

Claim Rejections – 35 U.S.C. § 103:

Claims 2-5, 7, and 15-16 were also rejected as unpatentable under 35 U.S.C. § 103(a) in view of the combined teachings of Lord and U.S. Patent No. 6,413,263 to Lobdill et al. ("Lobdill"). Claims 17-20 were rejected as unpatentable under 35 U.S.C. § 103(a) in view of Lord only. These rejections are respectfully traversed for at least the same reasons given above with respect to the independent claims from which they depend.

Conclusion:

For the foregoing reasons, the present application is thought to be clearly in condition for allowance. Accordingly, favorable reconsideration of the application in light of these remarks is courteously solicited. If any fees are owed in connection with this paper that have not been elsewhere authorized, authorization is hereby given to charge those fees to Deposit Account 18-0013 in the name of Rader, Fishman & Grauer PLLC. If the Examiner has any comments or suggestions that could place this application in even better form, the Examiner is requested to telephone the undersigned attorney at the number listed below.

Respectfully submitted,

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